

RECEIVED

MAY 14 2018

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO YORK COUNTY
Court of Common Pleas

The Honorable Frank F. Addy, Jr., Circuit Court Judge

Appellate Case No. 2016-001363

HUBERT BROWN, #161888,.....RESPONDENT,

V.

STATE OF SOUTH CAROLINA,..... PETITIONER.

SUPPLEMENTAL APPENDIX

ALAN WILSON
Attorney General

LINDSEY A. MCCALLISTER
Assistant Attorney General
S.C. Bar No. 79054

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR PETITIONER

WANDA H. CARTER
Appellate Defender

Post Office Box 11589
Columbia, SC 29211

ATTORNEY FOR RESPONDENT

INDEX

INDEX	i
SC DEPARTMENT OF MENTAL HEALTH EVALUATION	1

CRIMINAL RESPONSIBILITY/CAPACITY TO CONFORM EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)

DATE OF EVALUATION: March 7, 2013

PRESIDING EXAMINER: Shannon L. Hansen, M. D., Forensic Psychiatry Fellow,
University of South Carolina School of Medicine

SECOND EXAMINER: Carol David, LISW-CP
South Carolina Department of Mental Health

DIAGNOSES: AXIS I: No Diagnosis
AXIS II: No Diagnosis
AXIS III: Status Post Nondisplaced Left Parietal Fracture
Status Post Ankle Fracture
Status Post Left Finger Laceration
History of Low Back Pain

OPINION REGARDING CRIMINAL RESPONSIBILITY: Responsible.

OPINION REGARDING CAPACITY TO CONFORM: Capable of conforming.

DISPOSITION: Mr. Brown was returned to the York County Detention Center in the custody of York County transport officers.

PERTINENT STATEMENT: Mr. Hubert Brown is a 43-year-old Caucasian male who was seen at the Forensic Evaluation Service pursuant to a court order from the York County Court of General Sessions. This court order requests an evaluation of his criminal responsibility and capacity to conform his behavior to the requirements of the law on or about June 6, 2012 pursuant to S.C. Code Ann. §17-24-10. He is charged with Attempted Murder and Burglary, First Degree. The basis for the order is as follows: "The circuit court finds from the information and documentation presented by the defendant's attorney, David Cook, and the state's attorney, Assistant Solicitor E. D. Springs, that serious questions are presented as to the defendant's mental condition and evaluation is clearly needed."

STATEMENT OF NONCONFIDENTIALITY: Prior to participating in the evaluation, Mr. Brown was informed of the limitations of confidentiality. He was informed that the evaluation was court ordered and that the examiners worked for the South Carolina Department of Mental Health and were not paid by his attorney or the solicitor. He was also informed that after the evaluation a report would be submitted to his attorney. He was informed the report may also to the solicitor

BROWN, JR. HUBERT FLOYD
1026-1088

OUTPATIENT EVALUATION *JEM*

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 1 58617

and the judge in his case. He was informed that the evaluators could be called to testify about this report at a trial. He verbalized understanding of this information and was able to answer questions pertaining to this information accurately. He agreed to participate in the evaluation.

SOURCES OF INFORMATION:

1. York County Court of General Sessions Court order requesting the evaluation.
2. Arrest Warrant #J-158716 for Burglary, First Degree dated June 15, 2012.
3. Arrest Warrant #M-604912 for Attempted Murder dated June 13, 2012.
4. York County Sheriff's Office General Sessions Case File Summary against Mr. Brown.
5. York County Multijurisdictional Forensic Services Unit Evidence and Inventory Sheet.
6. York County Sheriff's Office case report summary #2012-00018963.
7. Voluntary statement by Crystal Beck dated August 10, 2012.
8. Voluntary statement by Amy Mahoney dated June 9, 2012.
9. Voluntary statement by Michael Mahoney dated June 9, 2012.
10. Voluntary statement by Christopher Calvert dated June 15, 2012.
11. Forensic Interview Report by Paige M. Fougousse dated July 18, 2012.
12. Voluntary statement by Hubert Brown dated June 20, 2012.
13. Voluntary statement by Billy Odom dated June 15, 2012.
14. Voluntary statement by Tabitha Brown dated June 18, 2012.
15. An audio recording of a telephone call from the detention center between Mr. Hubert Brown and his wife, Tabitha Brown.
16. An audio recording of a telephone call between Mr. Hubert Brown and Detective Strickland.
17. York County Department of Corrections records for the defendant dated February 22, 2013 through March 16, 2013.
18. Photos provided by the defendant from a hospitalization at Piedmont Medical Center.
19. Piedmont Medical Center records for the defendant dated June 8 through 9, 2012.
20. York County Detention Center records for the defendant dated June 2012 through February 2013.
21. A social work assessment for Hubert Brown dated March 7, 2013.
22. A one hour clinical forensic interview for the defendant on March 7, 2013.
23. A ten minute telephone conversation with Ms. Tabitha Brown on April 26, 2013.

CLINICAL INFORMATION: Mr. Hubert Brown is a 43-year-old Caucasian male who denied a past history of psychiatric treatment. He was interviewed on March 7, 2013 at the Forensic Evaluation Service in Columbia, South Carolina and described his mood that day as "good." He denied trouble with sleep but stated he would rather be sleeping in his own bed than the detention center bed. He relayed an adequate appetite. He stated that he did not have a past history of psychiatric illness. He said that since he has been incarcerated, he has enjoyed going to church and reading his Bible. He denied a past history of anxiety, mania and auditory or visual hallucinations. He denied a past history of suicidal ideations or attempts at suicide. He denied past thoughts of wanting to harm anyone else or homicidal ideation. He denied past acts of self-injurious behavior.

JB
BROWN, JR. HUBERT FLOYD
1026-1088
OUTPATIENT EVALUATION

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 2 58617

Mr. Brown said that since the incident which led to his current incarceration, he felt more distrustful of others. He stated, "I think everybody is out to get me since this episode." Mr. Brown said that since he had been assaulted in June of 2012, he often felt paranoid. He stated that because he had been hit in the head when he was not expecting it, he was concerned that he may have developed Posttraumatic Stress Disorder. He did not endorse feeling scared for his life at the time of the episode. Rather, he stated that he was hit unexpectedly. He did not relay other symptoms of Posttraumatic Stress Disorder such as flashbacks, hypervigilance, or trouble with sleep.

Mr. Brown also denied a past history of inpatient psychiatric treatment or receiving treatment as a child.

SUBSTANCE USE HISTORY: Mr. Brown stated that he was a social drinker prior to his incarceration. He stated that he rarely drank more than two or three beers over the course of the day. He said that he first started drinking beer when he was about 18 years old. He recalled that he also tried marijuana when he was younger, but stated that he did not use cannabis on a regular basis. He denied a history of DUI's, blackouts or seizures associated with alcohol use. He denied a past history of social or occupational problems due to drinking alcohol or marijuana use. He stated that it had been many years since he used marijuana. Mr. Brown denied the use of hallucinogenic drugs and denied the use of other substances of abuse such as methamphetamine or synthetic cannabis.

PAST MEDICAL HISTORY: Mr. Brown recalled that in June of 2012 he was assaulted and subsequently sent to the Piedmont Medical Center. He stated he was treated for a laceration to his scalp and a concussion. He also stated that he fractured his ankle and lacerated his fingers at that time. He stated that he received the medication gabapentin (Neurontin®) secondary to facial pain that he has experienced since he sustained his head injury in June 2012. He stated that is the only medication that he takes on a regular basis.

He stated that he required right wrist surgery in the distant past secondary to a severe sprain.

Mr. Brown denied the use of other medications on a regular basis. As he denied past psychiatric treatment, he therefore denied past use of psychiatric medications.

FAMILY HISTORY: Mr. Brown denied knowledge of past family psychiatric history or substance use disorders in his immediate family. He stated that his mother, Ronda Ferguson, has cardiac disease.

SOCIAL HISTORY: Mr. Brown said he was born in North Charleston, South Carolina and raised by his biologic parents. He stated that his parents have been married over thirty years. Mr. Brown denied a history of childhood trauma. He denied a history of fights, fire setting or cruelty to animals. He said that he had to repeat the 4th grade secondary to truancy. He stated he dropped out of the 11th grade due to financial stress in the family in order to go to work. He stated that he

BROWN, JR. HUBERT FLOYD
1026-1088

OUTPATIENT EVALUATION *JFM*

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 3 58617

has held various jobs in roofing and welding.

Mr. Brown added that he has a past history of legal charges which include Criminal Sexual Conduct which he received at the age of 18 and for which he served twenty years on a thirty year sentence. He said that he married Ms. Tabitha Brown while he was incarcerated and that he was happily married to her at the time of his most recent arrest.

MENTAL STATUS EXAM: Mr. Brown is a Caucasian male of average build. He was well groomed and appeared to have good hygiene. He was cooperative with the interview and made appropriate eye contact. His speech was regular rate, tone and volume. His thought process was logical and goal directed. His thought content was without any current suicidal or homicidal ideation. Mr. Brown denied auditory and visual hallucinations. He denied unusual thoughts or strange beliefs. He described his mood as "good" and his affect was full range. He was alert and oriented to the date, time and location of his interview as well as the purpose of his interview. He was aware of current events. Mr. Brown was able to state the current President and relayed past Presidents in correct order to Ronald Reagan. He demonstrated adequate ability to concentrate by spelling the word *earth* forwards and backwards and subtracting a series of numbers correctly. He was able to register three words and he recalled them after a five minute delay. He demonstrated the ability for abstract thought by grouping objects into categories. His judgment appeared intact to a hypothetical situation. His efforts to participate in the exam appeared good.

DIAGNOSTIC FORMATION: Mr. Brown did not relay a past history of psychiatric treatment. We opine that he does not meet diagnostic criteria at this time for a psychiatric diagnosis. Although he relayed feelings of paranoia since his head injury in June of 2012, he did not display or recount symptoms of Posttraumatic Stress Disorder other than feelings of paranoia.

Although he has a past history of legal charges which are indicative of Antisocial Personality Disorder, we do not find enough evidence to diagnose Mr. Brown with either a Personality Disorder or Personality Disorder Traits at this time.

CONCLUSION REGARDING CRIMINAL RESPONSIBILITY: Mr. Brown denied committing the crimes of Attempted Murder or Burglary, First Degree. He stated that on June 8, 2012, "Around 10 p.m., I went to Mahoney's house. We were like brothers. Two peas in a pod [sic]. He can't figure it out either. Five days later, I texted Mahoney threatening I wasn't going to let Chris Calvert get away with hitting my head." Mr. Brown recalled that around 6 p.m. on June 8, 2012, he called Mr. Mahoney to ask him about money that Mr. Mahoney owed him for helping construct a fence. He said that Mr. Mahoney requested that they meet at the restaurant Hooters, but that Mr. Brown laughed and said he could not go to that sort of restaurant as he was "a family man." Mr. Brown stated that Mr. Mahoney suggested they instead meet at his home later in the evening. Mr. Brown said that he decided to go to Mr. Mahoney's home around 10 p.m. in order to collect his money, and that his wife accompanied him. Mr. Brown stated when he arrived at Mr. Mahoney's, he got out of his vehicle and left it running. He said their children remained waiting in the car with his wife, Tabitha. He recalled that he was discussing the money that he was owed with Mr. Mahoney when he and Mr. Mahoney started pushing each other. He stated, "Mike went

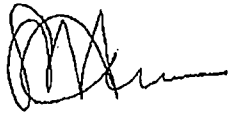
BROWN, JR. HUBERT FLOYD
1026-1088
OUTPATIENT EVALUATION

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 4 58617

to grab me with a bear hug. Chris came after me with the gear shifter and he hit me while Mike was holding me. Chris hit the left side of my head. It sounded like a pecan cracking." Mr. Brown added that the next thing he could recall, he was standing in front of his truck and he felt as if he were at the end of a tunnel. He stated he could hear Mike Mahoney telling him that he was bleeding. He said that he next remembered briefly being in his vehicle while his wife started to drive away and that he also remembered standing at the threshold of Mike Mahoney's house. He stated his next memory was of being treated for his head injury at the Piedmont Medical Center. Mr. Brown stated that prior to going to Mr. Mahoney's house, he had consumed one or possibly two beers. He stated that by his recollection, he was not inebriated at the time of the altercation at Mr. Mahoney's home. However, records from the Piedmont Medical Center indicate that Mr. Brown's blood alcohol level was approximately 129 at approximately 1 a.m. on June 9, 2012 (two hours after the alleged offense). This blood alcohol level is incongruent with Mr. Brown's account of the volume of alcohol which he stated that he consumed.

Mr. Brown did not report a delusion or symptom of mental illness that relates to the alleged crimes. Rather, he stated that he did not recall committing the crimes with which he is charged. He stated that he was acting in self-defense when interacting with Mr. Christopher Calvert. Mr. Brown has no history of mental health treatment nor does he have a past history of psychosis or a significant substance use disorder. There is no evidence that he was suffering from a mental illness to such an extent that it would have impaired his ability to distinguish legal or moral right from legal or moral wrong or to recognize the specific acts charged as legally or morally wrong. Therefore, it is our opinion that he would have been criminally responsible pursuant to S. C. Code Ann §44-23-410.

CONCLUSION REGARDING CAPACITY TO CONFORM: Although Mr. Brown received treatment for head trauma around the time of his charges for Attempted Murder and Burglary, First Degree, he did not report a compulsion, delusion, command auditory hallucination or other symptoms of mental illness that would have impaired his ability to conform his conduct to the requirements of the law.



Shannon L. Hansen, M.D., Forensic Psychiatry Fellow,
University of South Carolina School of Medicine

SLH/cj

D: 04/29/13

RT/EM: 04/29/13

F/EM: 05/02/13

BROWN, JR. HUBERT FLOYD ^{FW}

1026-1088

OUTPATIENT EVALUATION

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 5 58617